



Board of Health Agenda

Date: March 8, 2023

Time: 2:00 PM

Location: Conducted by Remote Participation

1. Administrative

BOARD OF HEALTH MEETING AGENDA

Date: Wednesday, March 8, 2023

Time: 2:00pm

Location: Conducted by Remote Participation

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the March 8, 2023 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

Public access to this meeting shall be provided in the following manner:

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at boh@town.arlington.ma.us by no later than 5pm on March 6, 2023. Submitted public comment will be read into the record at the appropriate points in the meeting.

Zoom Login instructions:

Instructions and the meeting link for this specific meeting can be found on the Board's agenda and minutes page or on the Town's meeting calendar. The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

<https://town-arlington-ma-us.zoom.us/meeting/register/tZIodOmqrDMrE9TlnXnnhZi-PDM-BQ6B8kNx>

On this agenda:

2. Acceptance of Meeting Minutes from January 18, 2023
3. HEARING:

Tobacco Violation - Arlington Smoke Shop

4. DISCUSSION:

Town Meeting Warrant Articles

5. UPDATES:

Environmental Health

6. UPDATES:

Restaurants

7. UPDATES:

COVID-19 / Public Health Nurse

PUBLIC COMMENT

Adjourn



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

BOARD OF HEALTH MEETING MINUTES

Date: Wednesday, January 18, 2023
Time: 2:00pm
Location: Conducted by Remote Participation

In accordance with the Governor's [Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20](#) relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the January 18, 2022 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

Public access to this meeting shall be provided in the following manner:

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at boh@town.arlington.ma.us by no later than 5pm on January 16, 2023. Submitted public comment will be read into the record at the appropriate points in the meeting.

Zoom Login instructions:

Instructions and the meeting link for this specific meeting can be found on the [Board's agenda and minutes page](#) or on the [Town's meeting calendar](#). The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

[https://town-arlington-ma-us.zoom.us/meeting/register/tZMudeChqDMtG9LNFRn9ttU0iJKwjjpXRWFh](https://town-arlington-ma-us.zoom.us/join/https://town-arlington-ma-us.zoom.us/meeting/register/tZMudeChqDMtG9LNFRn9ttU0iJKwjjpXRWFh)

On this agenda:

1. Administrative

Natasha Waden provided the following opening statement: Hello, this is Natasha Waden, Public Health Director for the Town of Arlington. Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and subsequent Act's Extending Certain COVID-19 Measures Adopted during

the State of Emergency, this Town of Arlington Board of Health meeting is being held virtually via Zoom for audio and video participation of Board Members and the public. When you entered this meeting, you were automatically muted. During this meeting you will be unmuted individually as needed. These controls are in place to ensure that today's meeting is safe and effective. At this time, I would like to confirm that all members and persons anticipated on today's agenda are present and can hear me.

Board Members, when I call your name and unmute you, please respond in the affirmative.

1. Dr. Marie Walsh Condon, Aye, Present
2. Dr. Laura White, Aye, Present
3. Dr. Peter Rice, Aye Present

Health Department staff, please respond in the affirmative when I call your name and unmute you.

1. Laura Munsey, Aye, Present
2. Jessica Kerr, Aye, Present
3. Pat Martin, Aye, Present
4. Annette Curbow, Aye Present
5. Cameron Bishop, Aye, Present

Applicants and Representatives, do we have anyone on the call representing an application? None

Others in attendance:

Gina Carme, Delores McGee, Jonathan Santos of Benchmark Tattoos

Thank you everyone.

As stated, this Open Meeting of the Arlington Board of Health is being conducted remotely consistent with An Act Relative to Extending Certain State of Emergency Accommodations which was signed by Governor Baker on July 16, 2022.

In order to mitigate the transmission of the COVID-19 Virus, the Town of Arlington has been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will have one public comment period at the end of the meeting. If you would like to comment during one of the public comment periods, please use the "Raise Hand" function if on a computer, or "Dial *9" if on the phone. When your name or phone number is called, and you are unmuted, please state your name and provide your comment. All attendees will be afforded 3 minutes for any comments.

For this meeting, the Board of Health is convening by telephone and computer conference via Zoom as posted on the Town's Website identifying how the public may join.

Only Health Department staff will be able to share their screen during this meeting. Board Members and Department Staff may be participating by video conference. Accordingly, please be aware that other folks may be able to see you. Anything that you broadcast may be captured by the recording.

All of the materials for this meeting are available on the Novus Agenda dashboard, and I recommend that Board Members and the public follow the agenda as posted on Novus unless otherwise noted. Members of the public are encouraged to provide written public comments. A new document, correspondence received, has been added and will be shared with the Board.

Before we get to today's agenda, I am going to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

Dr. Marie Walsh Condon, the Board Chair, will introduce each agenda item. After the item is presented, she will go down the list of Board Members, inviting each by name to provide any comment, questions, or motions. Please hold comments or questions until your name is called and you are unmuted.

For any response, please wait until the Chair yields the floor to you, and state your name before speaking.

Finally, each vote taken during this meeting will be conducted by roll-call vote.

Floor yielded to Dr. Marie Walsh Condon.

Hello everyone, welcome to today's Board of Health meeting.

2. Acceptance of the November 16, 2022 Meeting Minutes

Motion made by Dr. Laura White to approve the November 16, 2022 meeting minutes as submitted.

2nd by Dr. Marie Walsh Condon

Vote:

- Dr. Marie Walsh Condon, Aye
- Dr. Laura White, Aye
- Dr. Peter Rice, Abstain

Approved (2-0) Unanimous

Note: Dr. Peter Rice is a newly appointed Board Member who was not present at the November 16th meeting and cannot vote on the Meeting Minutes.

3. Discussion: Rule and Regulations regarding Body Art Establishments and Practitioners

Inspector Curbow informed the Board that the local Body Art Establishment Regulations have not been updated since they were created in 2001. In preliminary research the Health Department learned that many neighboring communities have since updated their regulations to reflect modern industry use standards and technology. Additionally, in 2019 the National Environmental Health Association released an updated model code that reflected new industry standards. In the past two years we have had 2 additional body art establishments open in Arlington which brings the towns numbers from 1 to 3 parlors, primarily practicing tattoo but we also have body piercers represented. In working with those establishments we heard from Practitioners who would like the town to review and update the regulations to reflect those industry standard changes including creating pathways for apprenticeship, allowances for microblading, evaluating fee structures, and exploring a temporary or guest practitioner license pathway.

Dr. Marie Walsh Condon agreed that it has been some time since these regulations have been adopted and it is good practice to review existing regulations from time to time and make sure they are updated to reflect any new technology and also we can review regulations from surrounding communities, as well as review recommendations from the National Environmental Health Association and schedule a hearing at a future meeting and make any changes or adoptions as appropriate. Floor yielded to Dr. Laura White.

Dr. White commented that when looking through the town's regulations she noticed the data is from 2001 and inquired what can be changed at town level or do changes need to come from other governing bodies. Floor Yielded to Director Natasha Waden.

Director Waden informed the Board that Body Art Regulations fall under the local purview, and there are some model regulations that we would review prior to making any changes. The issues that may come into play are any zoning issues, i.e. Body Art Establishments cannot operate at a residential location and would have to be located and operated at an establishment zoned for business. Town Council will review. Our staff would look at surrounding regulations, have input from practitioners in town and reach out to state affiliates and others doing this work and review best practices and draft something and bring before the Board.

Benchmark Tattoo letter was submitted under Correspondence Received.

Dr. Peter Rice, mirrored the question raised by Dr. White regarding the process, and through Director Waden's response understands that the research is conducted by the Health Department Professional Staff. He further inquired on the time-frame for such matters.

Director Waden informed that Board this process will take some time. Typically 6-8 Months would be a projected time frame which would allow time for research, Board input, Hearing, Town Council review, and a vote on any changes to the regulations.

Floor yielded to Jonathan Santos from Benchmark Tattoo who stated they are looking to adopt regulations that other local towns recently adopted which include a guest artist practitioner license. Over the past 10 years of traveling Mr. Santos noted he has held over 15 licenses, and that every set of regulations is different at each town, but one significant difference is that Massachusetts is the only state that requires the Anatomy and Physiology class, which makes it difficult for guest artists to provide services in Arlington.

Dr. Walsh Condon thanked Mr. Santos for his input and stated the staff will be reaching out for additional input as we make some proposed changes, and there will be a hearing scheduled in the next few months.

4. Discussion: 2023 meeting schedule:

Dr. Marie Walsh Condon requested changing the March 1st meeting to March 8th.

Dr. White is available for all proposed dates as well as March 8th

Dr. Rice is available for all proposed dates as well as March 8th

Proposed 2:00 pm start time works for all Commissioners

Director Waden informed the Board that the location is to be determined: March can be held remotely per the Governors orders, but if in-person is required, the locations will change to the Health Department Office at 27 Maple Street. Equipment is available if needed for Hybrid meetings.

6. UPDATES: Environmental Health

Inspector Martin reported that on January 9th he visited 1530 Mass Ave and met with Receiver, Attorney Stuart Schrier and his happy to report that the interior has been cleaned out and exterior is in very close to being in compliance with Health Regulations at this point. He further reported there is a hearing today in Eastern District Housing Court regarding this case, and he is hoping that by the March 8th meeting we will be able to report this case as closed.

Tetragenetics has a name change and is now AbCellera Boston. They are anticipating large scale activity later this year, and will be submitting a proposal, and he will add to a future agenda. Floor Yielded to Director Natasha Waden.

Director Waden brought the Board up to date on the status of one of the warrant articles in regards to the prohibition of rodenticide being used throughout the town. She reported there is currently State legislation regarding this matter, so the local bylaw is on hold with no action, until we see what the State concludes. The town however has adopted a prohibition of 2nd generation rodenticide on all town buildings, under the direction of Deputy Town Manager Jim Feeney and he is working with Health Department Staff to clean up that policy. If appropriate the town will go out to bid to consolidate Pest Control Services throughout town implementing the integrated pest management that the town is interested in and use of any pesticides is only as a last resort. The use of any 2nd generation rodenticides would be a last resort and would need a waiver approved by the Health Department, and information regarding these waivers will be posted. It is the Health Departments goal to host an educational seminar/webinar this spring.

7. UPDATES: Restaurants

Inspector Martin stated a few establishments changed ownership including:

- Marias Pizza
- Yassou
- Galaxy Market is under new management and is now Arlington Heights Convenience.

Dr. Rice inquired the process for a change of ownership for Restaurants. Inspector Martin stated that anytime an establishment changes ownership they are considered a new business and need to contact the Health Department and complete the plan review process.

8. UPDATES: COVID-19 / Public Health Nurse

Nurse Kerr updated the Board with the following updates:

Covid contact tracing continues through our regional collaborative with Somerville and Medford which will run through June of 2023.

Some numbers from Maven (which do not include at home test results) include:

- November 2022: 92 Cases
- December 2022: 173 Cases
- January 2023 to date: 86 Cases

In 2022 there were over 5,000 Covid cases in Arlington and the Health Department administered over 1300 Covid vaccines. We continue to distribute at home tests throughout the community and continue to reach out to our assisted living facilities and long term care facilities.

In addition to Covid we have a lot of upper respiratory illness and other Influenza like illnesses that are going around. DPH reports Massachusetts as still being high and in the last few weeks visits for ILA have almost doubled in Massachusetts but we are starting to see numbers going down. RSV is still a concern however, we are seeing those numbers starting to down as well.

We are also monitoring some residents and travelers who recently came back from Uganda for any signs or symptoms of illness because there is a recent outbreak of Ebola in Uganda. On a positive note, last week the CDC took back that requirement because the World Health Organization (WHO) declared that outbreak is over.

Dr. Marie Walsh Condon echoed Nurse Kerr's report, and stated that her practice was seeing lots of influenza like illness including Covid, RSV, and Influenza and are starting to see a reprieve.

No Additional questions or comments by Dr. Laura White, or Dr. Peter Rice.

Director Waden informed the Board that prevention services, formerly the Arlington Youth Health and Safety Coalition, position is going to fall back under the supervision of the Health Department. The Prevention Services Coordinator Position has been posted and we expect some great

candidates. They will be working out in the community and the town expects some settlement funds from the Opioid Settlement to assist funding these initiatives. The successful candidate will be working on these initiatives and research what the trends are in our community to see what we can put in place to help mitigate these issues. Jessica Kerr, David Neylan, and Inspector Curbow have been helping to get this program in place, and we will be working with schools, AYCC, and Community Stakeholders to evaluate what our substance use needs are, and how best to use those Opioid Settlement funds to assist our Community.

Additionally we are looking forward to conduct an in-depth public health community needs assessment regarding trends we need to focus on in Arlington.

Chair Marie Walsh Condon inquired as to whom would be conducting the community needs assessment, and Director Waden replied that the town will be posting a Request for Proposal (RFP). The time line would be approximately 6-8 months for the RFP process, and then the Health Department will initiate stakeholder meetings and forums to be upwards of 6 months to a year, and that will be followed by a plan of action. Director Waden stated this is a long -term project that requires long range planning. Dr. Walsh Condon offered her assistance and is available to work with the Department in any way possible.

Dr. White inquired if there was any additional information regarding this Opioid project and any foreseeable challenges arising. For example: can we broaden this if stimulus becomes an issue.

All of these are intertwined, including mental health, substance use and abuse, homelessness, low income housing, and wrap-around services. We are looking to get data, look at what we are responding to, and to see if there are there are a significant number of overdoses, or suicide attempts, and what is the substance (cocaine, meth, etc.), and then once the data is compiled we can build off of that data to see what programs would be most beneficial. Recently the Town had a recovery coach, and we were able to get funding to provide some sober living options and assist with some basic needs. We are now trying to tie this into what we think we need but believe the best approach would be to conduct a community needs assessment to provide the best possible services. We do know we will need to take a wraparound approach. It needs to be more encompassing and broader. Unlike the AYHSC, this position needs to assist all ages, not just youth. As we collect data, we will share that with the Board and will also be reaching out to the Board for input as well as the Community to determine the best possible way and serving our Community in the best way.

Dr. Peter Rice asked if Director Waden if she could provide a couple of examples of where the town would get the information needed.

Director Waden replied that some of the strategies will be to:

- Work with police department, looking at police reports that are drug, substance abuse, or overdose related;
- Look at hospital data;
- Working with clinicians that are currently serving the youth of Arlington;
- Tap in to some participating Counselors and Mental Health Clinicians within the town;
- Conduct surveys;

- Conduct in-person meetings;
- Conversations with Physician offices
- Conversations with our schools;
- Review the Youth Risk Behavior Survey (YRBS) data with Guidance Counselors, and the Diversion Coordinator;
- Review Emergency Room data, through mass chip, etc.

There will be a lot of digging, a lot of work ahead, but we are excited to begin this project.

9. PUBLIC COMMENT - None

10. Adjourn

Motion to Adjourn made by Dr. Laura White at 2:45 pm.

2nd by Dr. Peter Rice

Vote:

- Dr. Marie Walsh Condon, Aye
- Dr. Laura White, Aye
- Dr. Pete Rice, Aye
-

Approved (3-0) Unanimous

Meeting adjourned



Town of Arlington
Department of Health and Human Services
Office of the Board of Health

27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

MEMORANDUM

To: Board of Health
From: Annette Curbow, Health Compliance Officer
Date: March 8, 2023
RE: Arlington Smoke Shop Compliance Violations

Annette Curbow, Health Compliance Officer, visited Arlington Smoke Shop on February 24, 2023 to conduct a regular compliance check. During the inspection, Ms. Curbow observed products for sale that are not consequential to the consumption of tobacco including, but not limited to, backpacks, tote bags, lanyards and t-shirts.

The above action is in violation of the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products which defines an adult-only retail tobacco store as "An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, **whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia**, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Arlington Board of Health and applicable state licenses."

Owner, Mr. Irfan Modi has been verbally advised of this requirement of his permit on numerous occasions prior to opening as well as since opening. Additionally, he has been notified in writing on the following occasions:

- July 19, 2021
- December 7, 2021
- September 20, 2022

According to the Town's REGULATION RESTRICTING THE SALE OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS,

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days.
- b. In the case of a second violation within 36 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days.
- c. In the case of three or more violations within a 36 month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.**

In addition to the above violation, Arlington Smoke Shop was issued a Correction Orders on October 13, 2022, for offering flavored nicotine products, and on September 20, 2022, for offering products for sale that are not consequential to the consumption of tobacco, and November 2, 2022 for the presence of a person younger than 21 years of age.

Enclosed please find the following items:

1. Copy of the correction order dated 3/2/2023
2. Copy of the correction order dated 11/2/2022
3. Copy of the correction order dated 10/13/2022
4. Copy of the correction order dated 9/20/2022
5. Copy of electronic mail communications dated 12/7/2021
6. Copy of electronic mail communications dated 7/19/2021



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

Correction Order

March 2, 2023

HAND DELIVERED

Arlington Smoke Shop
Attn: Irfan Modi and Pooja Modi
914 Massachusetts Avenue
Arlington, MA 02476

Please be advised that on February 24, 2023, Annette Curbow, Health Compliance Officer, conducted a compliance check of your establishment. Ms. Curbow observed non-tobacco related products including, but not limited to, backpacks, tote bags, lanyards, and t-shirts for sale.

Arlington Smoke Shop violated the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☒ **Other, see the below additional violation(s), with any necessary additional pages attached:**

Adult-Only Retail Tobacco Store (also known as "Retail Tobacco Store" in MGL Ch. 270): An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, **whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia**, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Arlington Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

You are hereby ordered to comply with Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against

Arlington Smoke Shop for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

Violation of Local Regulations

- ☐ In the case of a first violation, a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days.
- ☐ In the case of a second violation within 36 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days.
- ☒ **In the case of three or more violations within a 36 month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.**
- ☐ Fifth violation within a 36-month period from the first violation or additional violations during that time period: a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.

You are hereby ordered to pay the amount of **\$300.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health
27 Maple Street
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, March 8th, 2022 at 2:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:



Name:

March 1, 2023

Date:

Annette Curbow, MPH
Lead Health Compliance Officer
Town of Arlington
27 Maple Street
Arlington, MA 02476



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

Correction Order

November 2, 2022

HAND DELIVERED

Arlington Smoke Shop
Attn: Irfan Modi and Pooja Modi
914 Massachusetts Avenue
Arlington, MA 02476

Please be advised that on October 13, 2022, Padraig Martin, Lead Health Compliance Officer, visited your establishment and observed an individual under the age of 21 in the store. The clerk informed Mr. Martin that the underage individual is her daughter and comes to work with her.

Arlington Smoke Shop violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☒ **Other, see the below additional violation(s), with any necessary additional pages attached:**

Retail Tobacco Store means an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the **entry of persons younger than 21 years of age is prohibited at all times**, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city, town, or other legally constituted governmental unit within the Commonwealth where the establishment is located.

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Arlington Smoke Shop for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☐ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☒ **Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;**
- ☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.
- ☐ Fourth violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.

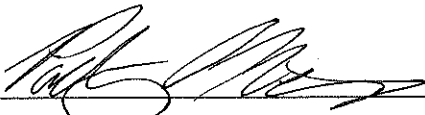
You are hereby ordered to pay the amount of **\$2,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health
27 Maple Street
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, November 16th, 2022 at 5:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:


Name: _____

11/2/2022
Date: _____

Padraig Martin, REHS
Lead Health Compliance Officer
Town of Arlington
27 Maple Street
Arlington, MA 02476



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

Correction Order

October 13, 2022

HAND DELIVERED

Arlington Smoke Shop
Attn: Irfan Modi and Pooja Modi
914 Massachusetts Avenue
Arlington, MA 02476

Please be advised that on September 29, 2022, Rotem Aloni, Agent of the Board of Health, conducted an inspection of your establishment. Ms. Aloni observed flavored nicotine product (Whiskey nicotine liquid) available for purchase at the time of inspection.

Arlington Smoke Shop violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☒ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☐ Other, see the below additional violation(s), with any necessary additional pages attached:

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Arlington Smoke Shop for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☒ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☐ Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;
- ☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.
- ☐ Fourth violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.

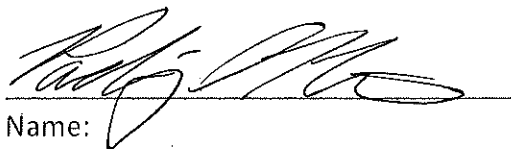
You are hereby ordered to pay the amount of **\$1,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health
27 Maple Street
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, October 19th, 2022 at 5:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:


Name:

10/13/2022
Date:

Padraig Martin, REHS
Lead Health Compliance Officer
Town of Arlington
27 Maple Street
Arlington, MA 02476



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
27 Maple Street
Arlington, MA 02476

Tel: (781) 316-3170
Fax: (781) 316-3175

Correction Order

September 20, 2022

HAND DELIVERED

Arlington Smoke Shop
Attn: Irfan Modi
914 Mass Ave
Arlington, MA 02474

Please be advised that on September 19, 2022, Health Compliance Officers Annette Curbow and Cameron Bishop performed a compliance check at Arlington Smoke Shop. Ms. Curbow and Mr. Bishop observed products for sale that are not consequential to the consumption of tobacco. For example, the following products were observed for sale: incense, candles, mugs, room deodorizers. Please note, this is not an exhaustive list of all non-tobacco related products for sale.

Arlington Smoke Shop violated the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☒ **Other, see the below additional violation(s), with any necessary additional pages attached:**

Adult-Only Retail Tobacco Store (also known as "Retail Tobacco Store" in MGL Ch. 270): An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, **whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia**, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Arlington Board of Health and applicable state licenses. Entrance to the establishment must be secure so that

access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

You are hereby ordered to remove all products which are not used for the purposes of consuming tobacco from the premises within seven (7) days of receipt of this letter. Failure to comply with this order letter may result in fines, suspensions and a hearing before the Board of Health.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

A handwritten signature in black ink, appearing to read 'Annette Curbow', with a large, stylized loop at the end.

Name:

September 20, 2022

Date:

Annette Curbow, MPH
Health Compliance Officer
Town of Arlington
27 Maple Street
Arlington, MA 02476

Annette Curbow

Subject: RE: (Archive Copy) Re: Arlington Smoke Shop and CBD

Hello Mr. Leone,

Thank you for reaching out. The prohibition on the sale of CBD products is due to our local Regulations Restricting the Sale of Tobacco and Nicotine.

Arlington Smoke Shop is currently permitted as an "Adult Only Retail Tobacco Store" with the Town of Arlington. As defined in the local regulation, Adult-Only Retail Tobacco Store is "an establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia".

By definition, Mr. Modi's Adult-Only Retail Tobacco Store permit prohibits the sale of CBD or any other non-tobacco products at the store. I am happy to set-up a Zoom call with you and Mr. Modi to further explain the regulation as it relates to his Adult-Only Retail Tobacco Store permit as well as what options are available to Mr. Modi. When Mr. Modi was applying for the permit, we did review the options together.

If you would like to set up a Zoom call, I am available the following times:

Wednesday, December 7, 2021 - 2:00 pm

Thursday, December 8, 2021 - 10:30 am

Thursday, December 8, 2021 - 2:00 pm

Friday, December 9, 2021 - 10:00 am

If these times do not work for you, please let me know an alternate time that is best for you.

Best

Annette Curbow, MPH

Health Compliance Officer

Town of Arlington

27 Maple Street

Arlington, MA 02476

(781) 316-3170

www.arlingtonma.gov

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From: "John D. Leone" <John@Leonelaw.com>
To: "'Annette Curbow'" <ACurbow@town.arlington.ma.us>
Cc: <boh@town.arlington.ma.us>, "'Irfan Modi'"
<arlingtonsmokeshopma@gmail.com>
Date: Tue, 7 Dec 2021 16:49:34 -0500
Subject: Arlington Smoke Shop and CBD

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Dear Ms. Curbow, I have been working with Irfan regarding the town's position of not allowing him to sell CBD oils. In that regard we have spoken to the Massachusetts Department of Agricultural Resources and they assured us that there is NO license requirement or permit necessary to sell CBD oil or products. Please see the email exchange below.

We wish to request that you reconsider your denial of his

ability to sell these products. If necessary we are willing to appear before the Board of Health to request that their policy be changed to allow the sale of the produces in compliance with state law. How do we do so.

John D. Leone

Leone & Leone

637 Massachusetts Avenue

Arlington, MA. 02476

781-648-2345

From: Irfan Modi <arlingtonsmokeshopma@gmail.com>
Sent: Sunday, September 19, 2021 3:35 PM
To: john@leonelaw.com
Subject: Fwd: CBD

----- Forwarded message -----

From: Grubin, Sarah (AGR) <sarah.grubin@state.ma.us>
Date: Fri, 17 Sep, 2021, 12:43 pm
Subject: RE: CBD
To: Irfan Modi <arlingtonsmokeshopma@gmail.com>
Cc: Burgess, Jessica (AGR) <jessica.burgess@state.ma.us>

Good afternoon Irfan,

Thank you for reaching out to the MA Hemp Program. I recommend checking out our website as a starting point for more information:
<https://www.mass.gov/industiral-hemp-program>

The MDAR Hemp Program has a Policy Statement regarding the sale of

Hemp-Derived Products in the Commonwealth and there are limitations on what can and can't be sold in MA. A license is not required to sell hemp products at retail, however, items such as food and beverage products that contain CBD are prohibited. The sale of hemp flower to a consumer is also prohibited. The laws pertaining to the allowable uses of hemp and CBD are under the jurisdiction of the FDA and/or the MA Department of Public Health and local Boards of Health. For more information about allowable uses of hemp, please visit:
<https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers>

For more general questions about the MA Hemp Program, I recommend checking out our website: <https://www.mass.gov/industrial-hemp-program> and the FAQs: <https://www.mass.gov/guides/hemp-in-massachusetts-faqs>

Sarah M. Grubin

Hemp Program Coordinator

[mass.gov/industrial-hemp-program](https://www.mass.gov/industrial-hemp-program)

mahemp@mass.gov

pronouns: she, her

From: Burgess, Jessica (AGR) <jessica.burgess@mass.gov>
Sent: Friday, September 17, 2021 12:31 PM
To: Irfan Modi <arlingtonsmokeshopma@gmail.com>
Cc: Grubin, Sarah (AGR) <sarah.grubin@mass.gov>
Subject: RE: CBD

Irfan:

Thanks for reaching out. I am copying Sarah Grubin, our Hemp Program Coordinator, who can answer questions related to licensing and retail sales. You can also find more information about the state's Hemp Program on our website: <https://www.mass.gov/industrial-hemp-program>

I should note, however, the sale of hemp flower or plant material to anyone who does not hold a MA Grower or Processor license is prohibited in the Commonwealth. This means that hemp flower or plant material cannot be sold directly to a consumer, regardless of age.

Thank you.

Jessica

Jessica H. Burgess, Esq.

Legal Counsel

Massachusetts Department of Agricultural Resources

251 Causeway Street, Suite 500

Boston, MA 02114

Jessica.Burgess@mass.gov

617-626-1722 (office)

617-939-6627 (mobile)

617-626-1850 (fax)

From: Irfan Modi <arlingtonsmokeshopma@gmail.com>
Sent: Friday, September 17, 2021 12:09 PM
To: Burgess, Jessica (AGR) <jessica.burgess@mass.gov>

Subject: CBD

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello jessica ,

I have a smoke shop in Arlington Mass its 21+ only tobacco Store i want to sell CBD products like Flower , lotion , tincture etc do i need specific permit from the department of agriculture for that ? As every smoke shop sells them please help you with this i will really appreciate it thank you

Annette Curbow

Subject: RE: (Archive Copy) Re: Tobacco Retailer Training

On Mon, 19 Jul, 2021, 4:49 pm Irfan Modi, <arlingtonsmokeshopma@gmail.com> wrote:

Hi Annette ,

You were really helpful today ! Thanks for the list and your reply i will read them well and get back to you if i have any questions and will keep you posted on the date of opening

On Mon, 19 Jul, 2021, 3:26 pm Annette Curbow, <ACurbow@town.arlington.ma.us> wrote:

>>>> Hello Irfan,

It was nice meeting you this afternoon. Please find attached the Arlington Tobacco Regulations as well as a list of flavored tobacco products. Please note that this list was last updated on December 18,2019 and is not a comprehensive list.

Below I have provided answers to your questions from today:

Can a smoke shop sell flavored papers?

No. 105 CMR 665.010 and the Arlington Tobacco Regulations prohibit the sale of flavored tobacco products defined as "any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. Papers are considered a "component part" and flavoring of these are therefore prohibited.

Can a smoke shop sell CBD products?

No. In the Arlington Tobacco Regulations, an Adult-Only Retail Tobacco store is defined in part as "An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia..."

Can a smoke shop sell lottery tickets?

No. In the Arlington Tobacco Regulations, an Adult-Only Retail Tobacco store is defined in part as "An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia..."

Is there a waiting or notification list for when additional tobacco retail permits become available?

No. Tobacco retail permits are on a first-come-first-serve basis. Applications for new retail tobacco locations will not be accepted until such time a permit becomes available.

Can free t-shirts be given out to customers?

No. In the Arlington Tobacco Regulations, an Adult-Only Retail Tobacco store is defined in part as "An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia..." The provision of t-shirts to customers has been found not to fit this definition.

Can discounts be offered on glass and accessories?

Yes.

If you have any additional questions, don't hesitate to reach out. When you are closer to being ready to open, give us a call to schedule your inspection.

Best,

Annette Curbow, MPH

Health Compliance Officer

Town of Arlington

27 Maple Street

Arlington, MA 02476

(781) 316-3170

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HardiAvOJx52YJMLc3Zh0gjrZ0Qf1VoiHtDXimzjLhrRwDbvTsXfA1Km-WvmA8hmvvVWh4McyL&typo=1>

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From: Irfan Modi <arlingtonsmokeshopma@gmail.com>

To: Annette Curbow <ACurbow@town.arlington.ma.us>

Date: Thu, 15 Jul 2021 15:15:22 -0400

Subject: Re: Tobacco Retailer Training

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>>>> Monday 1 pm works for me as we decided over the phone

>>>>

>>>>

>>>> Thanks

>>>>

>>>> On Thu, 15 Jul, 2021, 11:47 am Annette Curbow, <

>>>> ACurbow@town.arlington.ma.us> wrote:

>>>>

>>>>> Hello Irfan,

>>>>>

>>>>> It was nice speaking with you today. We will be holding the

>>>>> training in-person at 27 Maple Street. Our offices are located on the second floor.

>>>>>

>>>>> The building is under construction, but you can still enter and

>>>>> take either the stairs or elevator to the second floor. Our doors

>>>>> are locked, but if you call me at 781-316-3174 when you arrive, I

>>>>> will come out to meet you. While you are required to take the

>>>>> training, we encourage any other staff members who are interested in participating.

>>>>>

>>>>> At the time of the training, we'll also have all the required

>>>>> signage available for you.

>>>>>

>>>>> Please let me know if you have any questions!

>>>>>

>>>>> *Annette Curbow, MPH*

>>>>> Health Compliance Officer

>>>>> Town of Arlington

>>>>> 27 Maple Street
>>>>> Arlington, MA 02476
>>>>> (781) 316-3170
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